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C O N F I D E N T I A L SECTION 01 OF 03 LAGOS 000299

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STATE FOR AF/W,

E.O. 12958: DECL: 20 YEARS

TAGS: [PGOV](#) [NI](#)

SUBJECT: NIGERIA: SOUTHWEST, SOUTHEAST GUBERNATORIAL
TRIBUNAL PROCESSES WIND DOWN AMID RULINGS

Classified By: CONSUL GENERAL DONNA BLAIR FOR REASONS 1.4 (B) AND (D).

11. (SBU) Summary: On July 15, a federal appeals court in Cross River State canceled the election of Governor Liyel Imoke, and ordered a new election within 90 days. On July 11, an appeals court in Enugu upheld the election of Governor Sullivan Chime. Also on July 11, a court of appeals validated the election of Ebonyi Governor Martin Elechi. On July 15, a tribunal widely believed to be corrupt validated the election of Osun Governor Olagunsaye Oyinlola. The tribunal process overall is a work in progress, as the varying results above demonstrate. End Summary.

Appeals Court Overturns Imoke's Election

12. (SBU) A Federal Appeals Court in Calabar, Cross River State, canceled the April 14 2007 election of Governor Liyel Imoke (People's Democratic Party, PDP) July 15. The Court ordered the Independent National Electoral Commission (INEC) to conduct new elections within three months of the date of ruling. The Speaker of the House of Assembly, Francis Adah (PDP), was subsequently sworn in as acting governor until the election. The Court ruled that votes were improperly allocated, that no certificate of returns was issued, and that petitioners were denied a fair hearing. The Court's judgment followed a dismissal of the Election Tribunal's ruling in favor of Governor Imoke, and upheld the appeal of the six governorship candidates who had alleged that the April 14 elections were marred by gross irregularities and non-compliance with electoral law. Imoke announced that he would step down, and called a Cabinet and State legislators meeting during which he formally handed over authority to Speaker Adah.

13. (C) Since 1999, the PDP has been the dominant party in Cross River State; opposition parties are almost non-existent. However, the PDP has steadily lost support, especially among the rural population. Clay Offoboche, a Calabar-based political scientist and civil society activist, told PolSpec July 17 that the PDP had resorted to underhanded tactics such as improper vote allocation and certification out of desperation at its loss of popularity. The rural perspective, Offoboche said, described former Governor Donald Duke's development projects as beneficial only to the affluent; the poor feel left further behind as they face unpaid salaries, dilapidated rural infrastructure, and increasing poverty.

Osun Tribunal Member Alleged Corrupt

14. (SBU) An Osogbo, Osun State election tribunal July 15 dismissed the Action Congress (AC) governorship candidate Rauf Aregbesola's claim that electoral malpractices including violence and results manipulation placed Governor Olagunsoye Oyinlola (PDP) in power after the April 14, 2007 elections. The tribunal also refused to allow Aregbesola's case to be reopened to admit further evidence.

15. (SBU) Tension in the state was high ahead of the ruling due to allegations that the tribunal had accepted bribes. A July 9 report in a news magazine stated Oyinlola's lawyers had secret dealings with the tribunal members, and claimed to have evidence of this contact in the form of text messages and phone calls. On July 10, the Nigerian Bar Association (NBA) led many civil society groups in urging an investigation of the magazine's report. During a July 12 press conference, Aregbesola stated he would reject the tribunal's ruling, even if it was in his favor, because of these allegations of corruption. Though the National Judicial Council (NJC) and Federal Court of Appeals had been asked to dissolve the tribunal and order an investigation, neither had reacted.

16. (C) The Osun Election Tribunal ruled despite prior knowledge that allegations of corruption weakened its own credibility. It is unclear for now if Aregbesola will appeal the judgment, having rejected the tribunal's decision in its

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entirety. Even if he does appeal, it is unlikely that this allegation will be accepted by the Appeals Court as grounds for the appeal, as it falls outside the facts of the case already presented.

Enugu Governor Chime's Election Upheld by Appeal Court

17. (SBU) Governor Sullivan Chime's (PDP) election was upheld July 11 by an appeals court which overturned the tribunal decision nullifying the same election. The appeal court ruled the tribunal failed to provide sufficient time for Chime to prove his case, and overturned all rulings in favor of the three opposition candidates who claimed the election was marred by irregularities.

18. (C) The July 11 appeals court ruling, originally scheduled for July 7, was postponed and no official reason was given. Opposition candidates alleged the court had given in to pressure from powerful politicians to return Chime to office. A national newspaper claimed Chime traveled extensively in the days preceding the ruling, seeking support of people close to court members. There has been no official denial of these allegations to date. Ogochukwu Nkolagu, Enugu State secretary of the All Progressives Grand Alliance (APGA) told PolSpec July 16 that notwithstanding mistrust of the court, the ruling mirrored the mood of the people, explaining why there was no violent reaction afterward. He believed the court may have based its decision on the fact that many people feel comfortable with Chime's performance. Nobody wants former Governor Chimaroke Nnamani and his highly corrupt cronies back in power, Nkolagu explained, stating this was one possible outcome of a hypothetical Chime removal.

19. (C) Contacts in the Southeast had told PolOff in June that Chime has done well for the state by paying pensions, importing medical equipment for teaching hospitals, and improving key roads leading to Nsukka and Adada. However, they also said that due to uncertainty regarding the Court of Appeals' decision, the security situation in the state had deteriorated, and that the same pre-election dynamic of distributing arms to hired thugs was on the rise. The

previous improvement in the security situation, contacts stated, were very slight and very fragile, brought about by adequately equipping the police. However, the equipment police were given is failing and is not being replaced. The ruling may increase security and stability in the state, temporarily resolving these tensions.

Ebonyi: Appeal Court Rules Elechi's Election Valid

¶10. (C) A Court of Appeals dismissed an All Nigerian People's Party (ANPP) petition seeking to overturn an election tribunal ruling July 11, stating that ANPP candidate Ogbonnaya Onu was unable to prove his allegations of gross irregularity and non-voting in many polling places in the Ebonyi gubernatorial election. Wisdom Uche Durueke, Director of the Center for Development, Constitutionalism and Peace Advocacy and attorney for Elechi's challenger Onu, stated that during the tribunal hearing, INEC did a poor job of presenting evidence, mixing up its presentations on ballots, staff and polling placements. The tribunal had also rejected proffered forensic evidence of vote rigging, Durueke said, because the documents weren't presented early enough in the trial. He pointed out that no true opposition party exists in Ebonyi, despite their efforts, and described the common view of the appeals process as "only for losers."

¶11. (C) Apart from Onu, no other group or party has openly faulted the Appeals Court ruling, and no violence was reported after the results were announced. While Ebonyi state is one of the region's most stable, this may also indicate that people are suffering from tribunal fatigue and want to move on with their lives.

Abia: Orji's Appeal Ruling Postponed Indefinitely

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¶12. (C) Though an announcement was rumored to be coming July 11, the Port Harcourt appeal court did not render judgment in the case of Theodore Orji's (People's Progressive Alliance) governorship of Abia State. The tribunal nullified his election based on two criteria. First, it was proven to the tribunal's satisfaction that Orji is a member of a secret cult, an illegal association for elected officials, according to Nigerian law. Second, Orji had not properly resigned his earlier position before winning the election; Nigerian law holds a person cannot occupy two government positions simultaneously. Olissa Agbakoba, head of the Nigerian Bar Association and Orji's lawyer, told PolOff June 18 that the appeal court will rule in Orji's favor. The shrine Orji belongs to is not a secret shrine, if everyone knows about it, Agbakoba argued, adding that Orji held a political appointee position in government previously, from which he was not required to resign. Whether his positive assessment of his client's situation will come true remains to be seen.

¶13. (C) Comment: While the tribunal process has not yet ended, their efforts have yielded uneven results. It is hard to determine whether their actions have been transparent or effective in building confidence in the election process. In several states, they have overturned the PDP incumbents' elections (such as Cross River, Rivers, Bayelsa, and Edo state), which is perceived by many as indicating the tribunals' independence and vitality, and their adherence to the rule of law. In other cases, tribunals and appeals courts have supported the incumbent. Of these, our contacts contend the tribunals were either corrupt (as alleged in Oyo, Osun and Ogun states), or favored stability over law (in the cases of Enugu and Ebonyi). In Bayelsa State, where the election was rerun, supporters of the Governor gloat that the whole process not only gave the Governor legitimacy, it extended his tenure for a year. Like many things in Nigeria, the tribunals are a work in progress, with mixed reviews of their effectiveness. End Comment.

